



Larry Hogan | Governor  
Boyd Rutherford | Lt. Governor  
R. Michael Gill | Secretary of Commerce  
Benjamin H. Wu | Deputy Secretary of Commerce

## **The Advisory Council on the Impact of Regulations on Small Businesses**

### **MEETING MINUTES**

Thursday  
September 14, 2017  
12:30 p.m.  
Bentley Conference Room  
Maryland Department of Transportation Headquarters  
7201 Corporate Center Drive  
Hanover, Maryland

#### **Advisory Council Members in Attendance**

Michael Gill, Secretary, Department of Commerce  
Lauri A. McGuire, Assistant Secretary, Department of General Services (Representing Secretary Churchill)  
Senator James DeGrange  
Delegate Benjamin Brooks  
Leslie Goodwyn, SpeedPro Imaging

#### **Department of Commerce Staff**

Rhonda Ray, Director of Office of Policy, Research and Government Affairs  
Malachy Rice, Regulations Analyst  
Malika Noland, Management Associate

#### **I. Opening Remarks**

Secretary Gill opened the meeting and explained that the purpose the meeting was to review and adopt recommendations for the Advisory Council's annual report.

#### **II. Approval of Minutes**

Minutes were adopted by unanimous consent with a correction provided by Delegate Brooks.

### **III. Discussion and Adoption of Recommendations**

Mr. Rice provided a review of the work the Advisory Council had done that led to the recommendations it was considering, and gave an overview of the recommendations.

Secretary Gill then opened up discussion on the recommendations. Delegate Brooks asked for clarification on the recommendation to allow State agencies to exempt small businesses from a regulation if there is local regulation at least as stringent. Mr. Rice explained that it was not a matter of having a local regulation supersede a State regulation, but rather an attempt to reduce duplication between State and local regulations. Senator DeGrange commented that such a requirement in State law would be useful in the appeal process for regulations.

Senator DeGrange asked who would be responsible for carrying out the recommendation to study data and information sharing between State agencies. Mr. Rice replied that he had not identified a specific agency, and explained that the recommendation was included because identifying data is the most frequently cited obstacle to adequately estimating the economic impact of proposed regulations. Assistant Secretary McGuire suggested the Governor's Office of Performance might be the appropriate agency. Her suggestion was supported by consent of the Advisory Council.

Secretary Gill asked Mr. Rice what would be an appropriate increase to the current 15-day period for the Joint Committee on Administrative, Executive and Legislative Review (AELR) to review proposed regulations. Mr. Rice explained that the recommendation was an attempt to improve oversight, especially during the legislative session. He further explained that Department of Legislative Services' staff who review economic impact estimates have the primary responsibility of preparing fiscal notes during session. He then suggested that the legislative members of the Advisory Council might be able to provide a suggestion for increasing the time period of AELR review. When asked by the Chair, Senator DeGrange recommended increasing the amount of time for AELR review from 15 days to 30 days. The Advisory Council adopted Senator DeGrange's recommendation by consent.

Further discussion of the recommendations included Secretary Gill inquiring if anyone was aware of regulations being sunsetted that are no longer necessary or outdated. Ms. McGuire cited the Regulatory Review Act and explained that agencies are supposed to review their regulations every eight years, but was not sure if that was done. Mr. Rice confirmed that agencies are reviewing their regulations as required according to the Department of Legislative Services. He then added that it can be difficult to sunset a regulation as long as the law requiring the regulation is still effective. There was also discussion of having the Department of Information Technology lead the study on the State's ability to provide for electronic submission of all reports, paperwork, payments, and documentation required by regulation.

After the Advisory Council completed its discussion, Senator DeGrange made a motion to adopt the recommendations as amended during discussion to include in the Advisory Council's annual report to the Governor and General Assembly. Delegate Brooks seconded the motion. The motion carried unanimously. Delegate Brooks and Senator DeGrange agreed to sponsor legislation for any recommendations that involve a change to State law.

## **VI. Closing Remarks & Adjournment**

Secretary Gill asked the members for their thoughts on the next step for the Advisory Council. A brief discussion of the statutory responsibilities ensued. Mr. Rice provided clarification that by law the Advisory Council was required to review all proposed regulations and advise AELR of regulations that have a small business impact, and not just regulations agencies identify as having an economic impact on small businesses. He expressed skepticism in the Advisory Council's ability to fulfill this statutory charge given the wide-range of issues regulated by the State, and the number of regulatory changes given the 2,252 changes adopted in 2016. In response to Mr. Rice's statement, Senator DeGrange quipped members would have to quit their jobs to be able to review all proposed regulations. Members concurred that the time commitment to review all regulations was unreasonable, particularly for the small business owner members.

Ms. Goodwyn asked if Advisory Council's recommendations were adopted by the Governor and the General Assembly, then is there any way to verify that agencies implemented the recommendations. She asked specifically if agency personnel who drafted a regulation could be asked to present to the Advisory Council. Mr. Rice confirmed that it was not only possible, but that the law required agency personnel to assist the Advisory Council with its work. There was general consensus that the Advisory Council may want to have agencies provide a briefing on the implementation of its recommendation.

Members then discussed the role it could play in the legislative session, and Senator DeGrange stated it would be helpful to have the small business owner members testify at bill hearings for any legislation introduced as a result of their recommendations.

The next meeting of the Advisory Council was not set because members agreed that they needed to wait and see what happened with their recommendations. Mr. Rice said if legislation passed to make the statutory changes recommended by the Advisory Council, then the next meeting date would depend on the effective date of the legislation, which he explained is typically October 1.

Secretary Gill directed Mr. Rice to keep members informed on the status of their recommendations, including keeping members informed on legislation during session, and then closed the meeting.